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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Jackie Sader-Paquet, an
individual;

Plaintiff,

v.

Check Collection of
America, Inc., a Texas
corporation; and
Jane Doe Lea, an
individual;

Defendants.

No.

COMPLAINT

(Jury Trial Demanded)

Plaintiff alleges as follows:

I. Preliminary Statement

1. Plaintiff brings this action for damages based upon Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter "FDCPA"), and for unreasonable debt collection and invasion of privacy. In the course

1 of attempting to collect an alleged debt, Defendants
2 engaged in deceptive, unfair and abusive debt
3 collection practices in violation of the FDCPA, and
4 took actions which constitute unreasonable debt
5 collection and invasion of privacy under the
6 doctrine enunciated in Fernandez v. United
7 Acceptance Corporation, 610 P.2d 461 (Ariz. App.
8 1980). Plaintiff seeks to recover actual damages,
9 statutory damages, and punitive damages, as well as
10 reasonable attorney's fees and costs.

11 **II. Statutory Structure of FDCPA**

- 12 2. Congress passed the FDCPA to eliminate abusive debt
13 collection practices by debt collectors, to insure
14 that those debt collectors who refrain from using
15 abusive debt collection practices are not
16 competitively disadvantaged, and to promote
17 consistent state action to protect consumers against
18 debt collection abuses. FDCPA § 1692.
- 19 3. The FDCPA is designed to protect consumers who have
20 been victimized by unscrupulous debt collectors
21 regardless of whether a valid debt exists. Baker v.
22 G.C. Services Corp., 677 F.2d 775, 777 (9th Cir.
23 1982).
- 24 4. The FDCPA defines a "consumer" as any natural person
25 obligated or allegedly obligated to pay any debt.

1 FDCPA § 1692a(3).

2 5. The FDCPA defines "debt" as any obligation or
3 alleged obligation of a consumer to pay money
4 arising out of a transaction in which the money,
5 property, insurance, or services which are the
6 subject or the transaction are primarily for
7 personal, family, or household purposes. FDCPA §
8 1692a(5).

9 6. The FDCPA defines "debt collector" as any person
10 who uses any instrumentality of interstate commerce
11 or the mails in any business the principal purpose
12 of which is the collection of any debts, or who
13 regularly collects or attempts to collect, directly
14 or indirectly, debts owed or due or asserted to be
15 owed or due to another. FDCPA § 1692a(6).

16 7. Any debt collector who fails to comply with the
17 provisions of the FDCPA is liable for any actual
18 damage sustained; statutory damages up to \$1,000;
19 attorney's fees as determined by the Court and costs
20 of the action. FDCPA § 1692k.

21 **III. Jurisdiction**

22 8. Jurisdiction of this Court, over this action and the
23 parties herein, arises under 15 U.S.C. § 1692k(d)
24 (FDCPA), and 28 U.S.C. §1337. Venue lies in the
25 Phoenix Division of the District of Arizona as

1 Plaintiff's claims arose from acts of the Defendants
2 perpetrated therein.

3 **IV. Parties**

4 9. Plaintiff is an individual and resident of Maricopa
5 County, Arizona.

6 10. Plaintiff is allegedly obligated to pay a consumer
7 debt.

8 11. Plaintiff is a "consumer" as defined by FDCPA §
9 1692a(3).

10 12. Defendant Check Collection of America, Inc. ("CCA")
11 is a Texas corporation.

12 13. CCA regularly collects or attempts to collect debts
13 owed or asserted to be owed or due another.

14 14. In the alternative, CCA regularly collects or
15 attempts to collect debts which it has purchased
16 after default.

17 15. CCA is a "debt collector" as defined by FDCPA §
18 1692a(6).

19 16. Defendant Jane Doe Lea ("Lea") is a collector
20 employed by CCA, whose true name is unknown.

21 17. Lea collects or attempts to collect debts owed or
22 asserted to be owed or due another.

23 18. Lea is a "debt collector" as defined by FDCPA §
24 1692a(6).

25 19. At all times relevant herein, Lea acted as an agent

1 of CCA in the collection or attempted collection of
2 an alleged debt from Plaintiff.

3 **V. Factual Allegations**

4 20. In or before 2004, Plaintiff incurred a debt which
5 resulted from a check returned for insufficient
6 funds in the amount of \$200 (hereinafter "Debt")

7 21. Plaintiff wrote the check for personal, family, and
8 household purposes.

9 22. Plaintiff filed Chapter 7 bankruptcy in December
10 2004, and listed the Debt in her schedules.

11 23. In 2008, Plaintiff attempted to open a bank account
12 with Chase Bank, and was denied based upon the
13 reporting of the returned check by Telecheck
14 Services to one or more consumer reporting agency.

15 24. Plaintiff contacted Telecheck concerning the
16 returned check, and was told that the check had been
17 assigned or sold to CCA.

18 25. Upon information and belief, CCA purchased the Debt
19 or was assigned the Debt for collection purposes.

20 26. Plaintiff contacted CCA to make arrangements to
21 clear the check so she could open a bank account.

22 27. CCA told her during that call that the balance owed
23 on the Debt was \$230, which included fees of \$30.

24 28. This was the first communication from CCA to
25 Plaintiff concerning the Debt.

1 29. On February 9, 2009, Lea from CCA called Plaintiff
2 concerning the alleged Debt.

3 30. During this conversation, Lea told Plaintiff that
4 she was sorry Plaintiff had not called sooner
5 because a warrant was out for her arrest, and that
6 Plaintiff will be arrested within two (2) hours if
7 the Debt was not paid immediately.

8 31. Plaintiff became very upset and worried because of
9 what Lea had told her, and asked Lea whether the
10 arrest could be stopped.

11 32. Ms. Lea told Plaintiff that unfortunately it was
12 already in the system.

13 33. Plaintiff immediately called her father in Wisconsin
14 and asked him if he could assist her and pay the
15 Debt to avoid her being arrested.

16 34. Plaintiff's father agreed to pay the Debt, and
17 called CCA and paid the debt using his credit card.

18 35. CCA charged \$230 on Plaintiff's father's credit card
19 on February 9, 2009 to pay for the alleged Debt.

20 36. Thereafter, Plaintiff asked CCA for a letter
21 confirming that the Debt had been paid, but CCA
22 refused to provide one.

23 37. Plaintiff has never received any written
24 communication from CCA concerning the Debt.

25 38. As a result of Defendants' actions as outlined

1 above, Plaintiff has suffered damages including, but
2 not limited to, embarrassment, humiliation, fear,
3 loss of opportunity, and other extreme emotional
4 distress.

5 39. Defendants' actions taken here were intentional,
6 willful, and in gross or reckless disregard of
7 Plaintiff's rights and part of its persistent and
8 routine practice of debt collection.

9 40. In the alternative, Defendants' actions were
10 negligent.

11 **VI. Causes of Action**

12 **a. Fair Debt Collection Practices Act**

13 41. Plaintiff repeats, realleges, and incorporates by
14 reference the foregoing paragraphs.

15 42. Defendants violations of the FDCPA include, but are
16 not limited to, 15 U.S.C. §§ 1692d, 1692d(1), 1692e,
17 1692e(2) (A), 1692e(4), 1692e(5), 1692e(7), 1692e(8),
18 1692e(10), 1692f, 1692f(1), and 1692g.

19 43. As a direct result and proximate cause of
20 Defendants' actions, Plaintiff has suffered actual
21 damages.

22 **b. Invasion of Privacy**

23 44. Plaintiff repeats, realleges, and incorporates by
24 reference the foregoing paragraphs.

25 45. Defendants' actions constitute unreasonable debt

1 collection and an invasion of Plaintiff's privacy
2 pursuant to the doctrine enunciated in Fernandez v.
3 United Acceptance Corporation, 610 P.2d 461 (Ariz.
4 App. 1980).

5 46. As a direct result and proximate cause of
6 Defendants' actions, Plaintiff has suffered actual
7 damages for which Defendants are liable.

8 **VII. Demand for Jury Trial**

9 Plaintiff hereby demands a jury trial on all issues
10 so triable.

11 **VIII. Prayer for Relief**

12 WHEREFORE, Plaintiff requests that judgment be
13 entered against each Defendant for:

- 14 a) Statutory damages of \$1,000 pursuant to §1692k;
15 b) Actual damages in an amount to be determined by
16 trial;
17 c) Punitive damages in an amount to be determined
18 by trial;
19 d) Costs and reasonable attorney's fees pursuant to
20 §1692k; and
21 e) Such other relief as may be just and proper.
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2 RESPECTFULLY SUBMITTED: August 5, 2009.
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4 s/ Floyd W. Bybee
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